

representative, the examiner and the examiner's supervisor. Careful attention needs to be given by the examiner's supervisor to this situation in view of the nature of the rejections offered by the examiner.

Prior to Applicant's presentation of compelling reasons for patentability of now pending claims 23 through 43, the applicant believes the examiner and his supervisor should ask themselves a very important question that sets the tone for the reasons to follow. That question is now stated and set off for emphasis:

Where in any cited reference whether taken alone or in combination with any other reference does anyone, whether or not of ordinary skill in any art, derive any teaching of a projectile, target, punching bag, car dash board or any other object being thrown, hit or punched by a person to produce an aroma capable of or intended to calm that person so as to assuage anger such as would be associated with "road rage" or any other condition?

The answer to that question is that none of the references relied on by the examiner provide any such teaching whatsoever!

Now considering the references cited and applied to one or more of claims 23 through 43, the Sweeny patent discloses a "scratch and sniff" article. The Goldwasser patent discloses a "scratch and sniff" article. The Sitabkhan published application discloses articles such as rugs, carpet, curtains and furniture that have extended release aromatic materials disposed in or on these articles so that the articles will "smell good". As such, a woman wearing perfume would constitute a reference as appropriate as Sitabkhan. The Mookherjee et al patent discloses a car dashboard having a "perfumed"

polymer incorporated into the plastic material forming the dashboard. Mookherjee et al is also equivalent to a perfumed woman or a shampooed dog.

Shouldn't the examiner begin to understand the incredible deficiencies of his rejections?

Considering these deficient references one at a time, the Sweeny "scratch and sniff" article is not disclosed as being capable of subjection to forceful percussion as is clearly recited in claims 23 inter alia. Whether this forceful percussion is "emotionally driven" or not is actually immaterial to the patentability of the claims since Sweeny does not "percuss" his article under any circumstance according to his own disclosure. Only the teachings of the present specification provide the disclosure of "percussion" thereby causing the examiner's position to be as glaring an example of using an applicant's own disclosure in a rejection as this practitioner of forty years has ever seen.

As to the examiner's unilateral dismissal of "intent", as in the recitation of "emotionally driven" percussion, the Applicant must wonder how the examiner has come to usurp the relatively recent Supreme Court decision concerning appropriate patentable subject matter. The examiner should be instructed by his supervisor as to the fact as stated "forcefully" by the United States Supreme Court that any subject known to man is appropriate for patent consideration. The examiner has taken it upon himself to remove any consideration of intent. Does the Applicant need to point out issued patents wherein "intent" was the nexus of patentable invention?

Goldwasser also discloses a "scratch and sniff" article. The comments made relative to Sweeny apply four square to Goldwasser.

Sitabkhan as noted above coats carpet, rugs, curtains, etc. with an extended release fragrance. The fragrance of the Sitabkhan articles releases over time whether or not contacted in any way. No one steps on carpet with an emotionally driven intent or with forceful percussion.

Mookherjee et al is essentially identical to Sitabkhan in that no contact of any nature is required with the vehicle dashboard to cause the fragrance of the polymers incorporated into the dashboard to permeate the interior of the vehicle.

Claim 23, as well as the other method claims now pending in this application, has at its core the disclosure/recitation that a therapeutic or entertaining affect is produced by an emotionally driven and forcefully percussive action on an article having an aromatherapeutic agent associated therewith to cause release of said agent to produce the therapeutic or entertaining affect. Rubbing a fingernail across microcapsules containing a fragrance such as to activate a "scratch and sniff" article is not a forceful percussion. Surely this is a simple fact all can agree on.

Certainly, a "scratch and sniff" article is not activated by an emotionally driven percussion whether or not forceful. Such a contention flies in the face of reason.

Absolutely no disclosure is provided by the applied references of calming anger such as in a road rage situation by pounding a vehicle dashboard with one's fist to release a calming aromatherapeutic agent or punching a "punching bag" with one's fist to release a calming aromatherapeutic agent or throwing a projectile forcefully against a target to release a calming aromatherapeutic agent, the target being disclosed as potentially having an image thereon, possibly such as the logo of the United States Patent and Trademark

Office, which could incite rage in the mind of one throwing the projectile when in the throes of a perplexing examination proceeding.

The examiner, once counseled by his supervisor, cannot possibly hold to the groundless rejections set out in the Official Action of July 24, 2007. The Applicant requests immediate removal of these rejections.

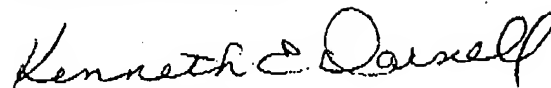
As to minor matters, the examiner needs to consult an appropriate dictionary concerning the word "affect", this word being completely appropriate in the claims. Further, the Applicant's lexicon is the Applicant's choice as is time-honored in patent practice.

The rejection of claim 33 under 35 U.S.C. 112, first paragraph, also requires reconsideration based on "human experience" if for no other reason. How can a specification provide disclosure for a projectile having an aromatherapeutic agent disposed thereon or therein and a target having aromatherapeutic agents disposed thereon or therein but fails to provide a basis for both a projectile and a target being so formed and which can be used in combination. In human experience from the dawn of time, projectiles have been thrown at targets. The examiner might not now be living had his ancestors not thrown projectiles at targets. The examiner's 112 rejection of claim 33 is obviously erroneous.

The Applicant hereby requests a telephonic interview with the examiner and his supervisor at the earliest possible time and intends to repeat this request by telephone.

The Applicant believes that the examiner, even prior to such an interview, should remove all rejections and objections instituted in the Official Action dated July 24, 2007 and immediately allow claims 23 through 43.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kenneth E. Darnell".

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